UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/652,253	09/02/2003	Jonas Hafren	60279-00061	1859

			EXAMINER
32294 7590 09/19/2006			PHUONG, DAI

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ART UNIT	PAPER NUMBER
2617	

DATE MAILED: 09/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	10/652,253	HAFREN, JONAS
	Examiner	Art Unit	
	Dai A. Phuong	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>23 August 2006</u>.

2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>*1-34 and 36-47*</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>*1-34 and 36-47*</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on <u>02 September 2003</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set forth in

37 CFR 1.17(e), was filed in this application after final rejection.   Since this application is

eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e)

has been timely paid, the finality of the previous Office action has been withdrawn pursuant to

37 CFR 1.114. Applicant's submission filed on 08/23/2006 has been entered.

Response to Amendment

Applicant's arguments, filed 08/23/2006, with respect to claims have been considered but are

moot in view of the new ground(s) of rejection. Claim 35 has been canceled and claim 47 has

been added. Claims 1-34 and 36-47 are currently pending.

Claim Rejections - 35 USC § 102

2.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed
> in the United States before the invention by the applicant for patent or (2) a patent granted on an application for
> patent by another filed in the United States before the invention by the applicant for patent, except that an
> international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this
> subsection of an application filed in the United States only if the international application designated the United
> States and was published under Article 21(2) of such treaty in the English language.

3.   Claims 1-4, 6, 10-28, 33-34 and 36-47 are rejected under 35 U.S.C. 102(e) as being

anticipated by Sumino et al. (Pub. No: 20050108156).

Regarding claim 1, Sumino et al. disclose a method comprising: establishing a data

connection for a subscriber 10 (fig. 1, [0061] to [0065]); establishing a continuous streaming

connection between said subscriber10 and a streaming source 70 (fig. 1, [0061] to [0065]) ;

terminating the continuous streaming connection between said subscriber 10 and said streaming

source 70 (fig. 1, [0068] and [0072] to [0075]); and charging said continuous streaming

connection using a time-based charging (fig. 1, [0068] to [0070] and [0084] to [0086] and [0117]

to [0119]).

Regarding claim 2, Sumino et al. disclose all the limitations in claim 1. Further, Sumino

et al. disclose the method wherein said charging further comprises: measuring a length of said

continuous streaming connection (fig. 1, [0068] to [0070] and [0084] to [0086]) and generating

charging information based on the said length (fig. 1, [0068] to [0070] and [0084] to [0086]).

Regarding claim 3, Sumino et al. disclose all the limitation in claim 2. Further, Sumino

et al. disclose a method wherein said step of measuring said length of said continuous streaming

connection further comprises: identifying a start and an end of said continuous streaming

connection based on a change of a state of said continuous streaming connection ([0086] and

[0117] to [0119]).

Regarding claim 4, Sumino et al. disclose all the limitation in claim 2. Further, Sumino

et al. disclose the method wherein said step of measuring the length of said continuous streaming

connection further comprises: recognizing a start of said continuous streaming connection

([0086] and [0117] to [0119]); starting a timer for measuring the length of said continuous

streaming connection ([0086] and [0117] to [0119]); recognizing an end of said continuous

streaming connection ([0086] and [0117] to [0119]); stopping said timer for measuring the length

of said continuous streaming connection ([0086] and [0117] to [0119]); and obtaining the length of said continuous streaming connection from said time ([0086] and [0117] to [0119]).

Regarding claim 6, Sumino et al. disclose all the limitation in claim 4. Further, Sumino et al. disclose the method wherein said recognizing the end of said continuous streaming connection further comprises the recognizing at least one of a teardown message and a disconnect message ([0050], [0074] to [0086]) and [0119] to [0120]).

Regarding claim 10, this claim is rejected for the same reason as set forth in claim 6.

Regarding claim 11, Sumino et al. disclose all the limitation in claim 2. Further, Sumino et al. disclose the method wherein said measuring the length of said continuous streaming connection further comprises a step of: identifying a temporary stop of said continuous streaming connection based on a change of a state of said continuous streaming connection ([0099] and [0123]).

Regarding claim 12, Sumino et al. disclose all the limitation in claim 11. Further, Sumino et al. disclose the method wherein said identifying a temporary stop of said continuous streaming connection is based on identifying a temporary stop ([0099] and [0123]).

Regarding claim 13, Sumino et al. disclose all the limitation in claim 2. Further, Sumino et al. disclose the method wherein said identifying a temporary stop comprises identify a pause message ([0123]).

Regarding claim 14, Sumino et al. disclose all the limitation in claim 2. Further, Sumino et al. disclose the method wherein said measuring the length of said continuous streaming

connection further comprises the steps of: sending temporary stop information about a temporary stop of said continuous streaming connection ([0099] and [0123]); based on said temporary stop information, halting temporarily the measuring of said length of said continuous streaming connection ([0099] and [0123]); sending restart information about a restart of said continuous streaming connection; based on said restart information, restarting the measuring of said length of said continuous streaming connection ([0099] and [0123]); and measuring the length of said continuous streaming connection based on said temporarily halting and restarting of the measuring of said length of said continuous streaming connection ([0099] and [0123]).

Regarding claim 15, Sumino et al. disclose all the limitation in claim 1. Further, Sumino et al. disclose the method wherein the method further comprising: checking whether a continuous streaming connection for the subscriber can be established ([0098] to [0100]).

Regarding claim 16, Sumino et al. disclose all the limitation in claim 1. Further, Sumino et al. disclose the method wherein the method further comprising: checking whether said time based charging can be used for said subscriber for continuous streaming connection ([0098] to [0109]).

Regarding 17, Sumino et al. disclose all the limitation in claim 1. Further, Sumino et al. disclose the method wherein the method further comprising: checking whether said time based charging can be used for said subscriber for said continuous streaming connection ([0098] to [0109])

Regarding claim 18, Sumino et al. disclose all the limitation in claim 15. Further, Sumino et al. disclose the method wherein said checking is performed based on at least one of a

Mobile Subscriber International Mobile Station Identifier number, an International Mobile

Subscriber Identity number, a client number, an identifier number, and a subscriber identifier

([0041]).

Regarding claim 19, this claim is rejected for the same reason as set forth in claim 18.

Regarding claim 20, this claim is rejected for the same reason as set forth in claim 18.

Regarding claim 21,Sumino et al. disclose all the limitation in claim 2. Further, Sumino

et al. disclose the method wherein the method further comprising: storing said length of said

continuous streaming connection in one or several charging records ([0017], [0041], [0083] to

[0084] and [0123]).

Regarding claim 22, Sumino et al. disclose all the limitation in claim 2. Further, Sumino

et al. disclose the method wherein the method comprising: storing said length of said continuous

streaming connection in one or several charging records relating to said subscriber ([0017],

[0041], [0083] to [0084] and [0123]).

Regarding claim 23, Sumino et al. disclose all the limitation in claim 2. Further, Sumino

et al. disclose the method further comprising: generating a charging record comprising said

length of said continuous streaming connection in relation to said subscriber ([0017], [0041],

[0083] to [0084] and [0123]).

Regarding claim 24, Sumino et al. disclose a mobile packet radio system 100 (fig. 1,

[0036]) comprising: a streaming source 70 (fig. 1, [0061] to [0065]); a subscriber 10 configure to

receive streaming data from said streaming source 70 (fig. 1, [0061] to [0065]); first

establishment unit configured to establish a data connection for said subscriber 10 (fig. 1, [0061]

to [0065]); a second establishment unit configured to establish a continuous streaming connection between said subscriber 10 and said streaming source 70 (fig. 1, [0061] to [0065]); a termination unit configured to terminate said continuous streaming connection between said subscriber 10 and said streaming source 70 (fig. 1, [0068] and [0072] to [0075]); and a charger configured to charge said continuous streaming connection using a time-based charging (fig. 1, [0068] to [0070] and [0084] to [0086]).

Regarding claim 25, this claim is rejected for the same reason as set forth in claim 2.

Regarding claim 26, this claim is rejected for the same reason as set forth in claim 3.

Regarding claim 27, this claim is rejected for the same reason as set forth in claim 4.

Regarding claim 28, this claim is rejected for the same reason as set forth in claim 6.

Regarding claim 33, this claim is rejected for the same reason as set forth in claim 6.

Regarding claim 34, this claim is rejected for the same reason as set forth in claim 11.

Regarding claim 36, this claim is rejected for the same reason as set forth in claim 13.

Regarding claim 37, this claim is rejected for the same reason as set forth in claim 14.

Regarding claim 38, this claim is rejected for the same reason as set forth in claim 15.

Regarding claim 39, this claim is rejected for the same reason as set forth in claim 16.

Regarding claim 40, this claim is rejected for the same reason as set forth in claim 17.

Regarding claim 41, this claim is rejected for the same reason as set forth in claim 18.

Regarding claim 42, this claim is rejected for the same reason as set forth in claim 19.

Regarding claim 43, this claim is rejected for the same reason as set forth in claim 20.

Regarding claim 44, this claim is rejected for the same reason as set forth in claim 21.

Regarding claim 45, this claim is rejected for the same reason as set forth in claim 22.

Regarding claim 46, this claim is rejected for the same reason as set forth in claim 23.

Regarding claim 47, this claim is rejected for the same reason as set forth in claim 24.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5.   Claims 5 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sumino et

al. (Pub. No: 20050108156) in view of Cox et al. (Pub. No: 20030216145).

Regarding claim 5, Sumino et al. disclose all the limitation in claim 4. However, Sumino

et al. do not disclose the method wherein said recognizing said start further comprises

recognizing a play message.

In the same field of endeavor, Cox et al. disclose the method wherein said recognizing

said start further comprises recognizing a play message ([0056] and [0062])

Therefore, it would have been obvious to one of ordinary skill in the art at the time the

invention was made to modify the portable telephone of Sumino et al. by specifically the method

wherein said recognizing said start further comprises recognizing a play message, as taught by

Cox et al., the motivation being in order to provide low cost; and also provide the wireless carrier

useful information about its customers' calling patterns, which may affect decisions relating to

system expansion.

Regarding claim 9, this claim is rejected for the same reason as set forth in claim 5.

6.   Claims 7-8 and 29-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sumino et al. (Pub. No: 20050108156) in view of Lopke et al. (Pub. No: 20020169868).

Regarding claim 7, Sumino et al. disclose all the limitation in claim 2. However, Sumino et al. do not disclose the method wherein said step of measuring said length of said continuous streaming connection further comprises: generating time stamps based on messages sent by said subscriber, and based on said time stamps, calculating said length of said continuous streaming connection.

In the same field of endeavor, Lopke et al. disclose the method wherein said step of measuring said length of said continuous streaming connection further comprises: generating time stamps based on messages sent by said subscriber, and based on said time stamps, calculating said length of said continuous streaming connection ([0007] and [0026]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the portable telephone of Sumino et al. by specifically disclose the method wherein said step of measuring said length of said continuous streaming connection further comprises: generating time stamps based on messages sent by said subscriber, and based on said time stamps, calculating said length of said continuous streaming connection, as taught by Lopke et al., the motivation being in order to monitor client page render time and individual user's experience with a particular network.

Regarding claim 8, the combination of Lopke et al. and Sumino et al. disclose all the limitation in claim 7. Further, Sumino et al. disclose the method wherein the method further comprises: recognizing a start of said continuous streaming connection ([0055], [0069] and

[0086]); creating a first time stamp indicating a start time of said continuous streaming connection ([0055], [0069] and [0086]); recognizing an end of said continuous streaming connection; creating a second time stamp indicating the end of said continuous streaming connection ([0055], [0069] and [0086]); and calculating said length of said continuous streaming connection based on said first and said second time stamps ([0055], [0069] and [0086]).

Regarding claim 29, this claim is rejected for the same reason as set forth in claim 7.

Regarding claim 30, this claim is rejected for the same reason as set forth in claim 7.

Regarding claim 31, this claim is rejected for the same reason as set forth in claim 8.

Regarding claim 32, this claim is rejected for the same reason as set forth in claim 8.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dai A Phuong whose telephone number is 571-272-7896. The examiner can normally be reached on Monday to Friday, 9:00 A.M. to 5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nguyen M Duc can be reached on 571-272-7503. The fax phone number for the organization where this application or proceeding is assigned is 571-273-7503.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dai Phuong
AU: 2617
Date: 09-07-2006

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